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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF COMMUNITY NATURAL GAS)
CO., INC. FOR AUTHORITY TO CHANGE ITS)
RATES, CHARGES, TARIFFS, RULES, AND)
REGULATIONS; AND APPROVAL OF AN)
ALTERNATIVE REGULATORY PLANS)
PURSUANT TO INDIANA CODE § 8-1-2.5-6 FOR)
PURPOSES OF IMPLEMENTING AN ENERGY)
EFFICIENCY PROGRAM, ASSOCIATED)
FUNDING AND DECOUPLING MECHANISMS,)
AND CHANGES TO PETITIONER'S)
CALCULATION OF COSTS FOR EXTENSION OF)
DISTRIBUTION MAINS)

CAUSE NO: 44298

APPROVED:

JUL 31 2013

ORDER OF THE COMMISSION:

Presiding Officers:
Kari A.E. Bennett, Commissioner
David E. Veleta, Administrative Law Judge

On January 29, 2013, Community Natural Gas Company, Inc. ("Petitioner") filed its Petition with the Indiana Utility Regulatory Commission ("Commission") seeking authority to change its rates, charges, tariffs, rules, and regulations; and approval of alternative regulatory plans to implement the Energy Efficiency Program ("EEP") and accompanying funding and decoupling mechanisms consistent with the Commission's Order in Cause No. 43995 ("Energy Efficiency Proceeding"). Petitioner also requested to change its current calculation used to determine costs to be recovered for the extension of distribution mains from its customers. On March 19 and 20, 2013, Petitioner filed its case-in-chief. On June 6, 2013, Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC") submitted their Notice of Settlement in Principle and Joint Motion for Modification of Procedural Schedule ("Settlement Agreement"). On June 14, 2013, Petitioner and the OUCC submitted testimony in support of the Settlement Agreement.

Pursuant to public notice, proofs of publication of which were incorporated by reference into the record and placed in the official files of the Commission, the Commission conducted a public hearing in this Cause on June 28, 2013, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and offered into evidence their respective pre-filed testimony and exhibits, which was admitted into the record. No members of the public appeared or sought to testify.

Having considered the evidence of record and the applicable law, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of these proceedings was given and published as required by law. Petitioner is a public utility as defined in Ind. Code § 8-1-2-1. Petitioner is also an energy utility as defined in Ind. Code § 8-1-2.5-2. The Commission has authority to approve rates for utility service under Ind. Code §§ 8-1-2-42 and 61, and has authority to approve alternative regulatory plans under Ind. Code § 8-1-2.5-6. Thus the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is a public utility, organized and existing under the laws of the State of Indiana. Petitioner provides natural gas service to customers in both rural and municipal areas to approximately 6,622 customers in Gibson, Posey, Dubois, Spencer, Greene, Monroe, Pike, Warren, Owen, and Sullivan Counties, Indiana.

3. **Existing Rates, Test Year, and Relief Requested.** Petitioner's current base rates and charges were established by this Commission on August 27, 2008, under Cause No. 43377. Based on a test year ending September 30, 2012, as adjusted for changes fixed, known, and measurable and occurring within the 12 months following such date, Petitioner proposed to change its base rates and charges and to increase its existing pro forma revenues by \$431,510, exclusive of the cost of gas. Petitioner proposed to allocate such increase in accordance with a cost of service study performed by its witness, Kerry A. Heid. Finally, Petitioner proposed to implement alternative regulatory plans for purposes of implementing the Energy Efficiency Program and changing the calculation for determining customer funding of main extensions.

4. **Settlement Agreement.** The Parties filed the Settlement Agreement, a copy of which is attached hereto, with the Commission. The Settlement Agreement indicated that the Parties have resolved all issues and describes the resolution of those issues for which they originally had disagreements. Specifically, the Settlement Agreement indicated that Petitioner's current rates and charges should be changed in order to increase Petitioner's operating revenue by \$398,468, exclusive of the cost of gas. Furthermore, the Parties also agreed that Petitioner should be authorized to implement: an alternative regulatory plan for purposes of executing the EEP with its associated funding and decoupling mechanisms and a separate alternative regulatory plan to change Petitioner's calculation associated with extending distribution mains.

5. **Evidence of the Parties.**

A. **Petitioner's Case-in-Chief.** Petitioner offered the testimony and exhibits of its witnesses Duane C. Mercer, Bonnie J. Mann, Donald E. Kieffer, and Mr. Heid. Mr. Mercer explained that he and his firm had been engaged to review Petitioner's financial records and advise Petitioner on an appropriate level of revenue in light of its operating expenses and investment in utility plant. Mr. Mercer's testimony indicated that Petitioner is not earning a reasonable rate of return on its investment. Mr. Mercer proposed that Petitioner should be authorized to increase its rates and charges in order to produce an additional \$431,510 in operating revenue, exclusive of the cost of gas. Mr. Mercer noted that this would result in an authorized net operating income of \$565,430 based on a 7.72% overall return on Petitioner's rate base, established on an depreciated original cost analysis of Petitioner's utility plant in service. Mr. Mercer also noted that the suggested net operating income assumes a cost of equity of 10.10%. He indicated that in his opinion, an return on equity ("ROE") of 10.10% is a reasonable

starting point. However, he states that Petitioner has certain unique risks, which taken together would suggest an ROE of 10.4% would be more appropriate, which would result in a 7.95% weighted cost of capital and a net operating income of \$582,276.

In addition to supporting the proposed increase in rate revenue, Mr. Mercer described Petitioner's request to initiate the EEP. Mr. Mercer also explained Petitioner's request to change the calculation it has historically used for main extensions from one using an estimate of gross revenues over three years to one using an estimate of margin revenues over six years.

Petitioner's witness Mann offered testimony describing and supporting the various pro forma adjustments to Petitioner's test year operating results used to establish Petitioner's requested revenue requirement in this case. Petitioner's proposed pro forma adjustments to current operating revenue and operating expenses included adjustments to: eliminate Gas Cost Adjustment ("GCA") revenues, apply new heating degree day normals, establish an appropriate unaccounted for gas percentage, remove the cost of natural gas from base rates, recognize changes to payroll and to pension contributions, recover rate case expense, reflect the current IURC fee, remove rebates currently associated with the normal temperature adjustment ("NTA") that will be included in the EEP, remove charitable contributions, recognize changes in various insurance costs, establish bad debt expenses based on a two-year average, recover expenses associated with the Energy Efficiency Proceeding, recognize appropriate depreciation expense to reflect current utility plant in service, recognize changes in taxes other than income taxes, and recover funds for state and federal income taxes.

Mr. Kieffer described the overall change in rates Petitioner was seeking exclusive of the cost of gas. Mr. Kieffer also explained the value of Petitioner's used and useful utility plant in service indicating that on an original cost basis net of depreciation, such plant should be valued at \$6,604,154. However, on a fair value basis, such plant would be valued based on a reproduction cost, less depreciation, basis of \$26,900,000. Mr. Kieffer described Petitioner's request to implement the EEP and the associated funding and decoupling mechanisms as in keeping with the EEP. Mr. Kieffer also explained Petitioner's request for an alternative regulatory plan to change the calculation to be used in future cases of distribution main extensions. He testified that gross revenue includes funds for the actual cost of gas, but funds used for gas purchases are not available for main extensions. Thus, in his opinion, this calculation should be based on non-gas revenue expected from such customers for extending its mains.

Petitioner's witness Heid offered testimony and exhibits reflecting the allocation of Petitioner's proposed revenue requirement based on his completed cost of service study. Such allocation results in changes to both the monthly service charge and volumetric rates for all of Petitioner's customer classes. Mr. Heid's exhibits described the impacts of such changes on typical customers within such customer classes. Mr. Heid also offered testimony describing an Energy Efficiency Rider proposed by Petitioner which would include the Energy Efficiency Funding Component ("EEFC") and the Sales Reconciliation Component ("SRC") recognized previously by the Commission in the Energy Efficiency Proceeding. Mr. Heid also explained how the EEFC and the SRC would be applied to residential customers only and would become effective on the first day of the first month following Commission approval in this Cause.

Finally, Mr. Heid offered testimony on a proposed tariff for Petitioner's proposed revenue changes. Mr. Heid noted that the proposed tariff includes changes to Petitioner's current tariff in order to update the normal temperature adjustment tables for new heating degree days, provide appropriate language for the change in calculating main extensions, and is in keeping with Petitioner's requested relief.

B. OUCC's Settlement Testimony. The OUCC offered the settlement testimony of its witness Laura J. Anderson. Ms. Anderson explained that the OUCC accepted a number of Petitioner's proposals and proposed revenue requirement adjustments. However, the OUCC also suggested different pro forma adjustments, including: a change in revenue based on normal heating degree days, a reduction in purchased gas costs, a reduction in rate case expense and an increase in the amortization period for its recovery, a further reduction in charitable contributions, a further reduction in health insurance expenses, a reduction in Petitioner's expenses related to Petitioner's participation in the Substitute Natural Gas ("SNG") litigation, a change in the recovery of decoupling expense associated with the EEP, an adjustment for various minor operating expenses described as miscellaneous expenses, and changes in the IURC fee and various taxes related to the flow through effect of different pro forma operating expenses suggested by the OUCC. Ms. Anderson also testified regarding the agreement between the Parties as to Petitioner's rate base, cost of capital, and cost of service. Ms. Anderson described the OUCC's review and the exchange of information between the Petitioner and the OUCC which ultimately resulted in the Parties' compromise on all issues and the Settlement Agreement which was filed with the Commission.

C. Petitioner's Settlement Testimony and Exhibits. Ms. Mann's settlement testimony explained that Petitioner and the OUCC had reached an agreement as to all operating expense adjustments, all issues related to Petitioner's capital structure and the cost of Petitioner's capital, and all issues associated with the Petitioner's rate base as of the test year. She described generally how the Parties had adjusted test year results through their compromise. Ms. Mann noted that the Parties' compromise had been reduced to writing and described in the Settlement. Finally, Ms. Mann testified that she had prepared settlement schedules (Exhibit DCM-S), which numerically describe the Settlement of the Parties as to all operating revenue, operating expense, rate base, and cost of capital issues in this Cause.

Mr. Heid's settlement testimony described that the Parties have agreed on how Petitioner's increased revenue should be applied to Petitioner's customer classes and the resulting rates and charges. He described the changes to his previously filed cost of service study that resulted from the Parties' compromise.

6. Discussion and Findings. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss", *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401 (Ind. Ct. App. 1996)). Thus the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Furthermore, any Commission

decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *United States Gypsum, Inc.*, 735 N.E.2d at 795. The Commission's own procedural rules require that settlements be supported by probative evidence. 170 I.A.C. 1-1.1-17(D). Therefore, before the Commission can approve the Settlement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such Settlement serves the public interest.

Petitioner requested Commission relief pursuant to Ind. Code ch. 8-1-2.5, the Alternative Utility Regulatory ("AUR") Act. Petitioner is an "energy utility" under the AUR Act. Under Section 6(a)(1) of the AUR Act, the Commission may adopt alternative regulatory practices, procedures and mechanisms and establish just and reasonable rates and charges that: (a) are in the public interest as determined by consideration of the factors listed in Ind. Code § 8-1-2.5-5; and (b) enhance or maintain the value of the energy utility's retail energy services or property, including practices and procedures focusing on price, quality, reliability, and efficiency of the service provided by the energy utility. Pursuant to Ind. Code § 8-1-2.5-5(b), the Commission, in determining whether the public interest will be served must consider:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.
- (2) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility's customers or the state.
- (3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.
- (4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

The Parties, through their respective pre-filed testimony and exhibits, have provided the Commission with evidence supporting relief under Ind. Code § 8-1-2.5-6 and their compromise offered through the Settlement Agreement in this Cause. The Settlement Agreement authorized Petitioner to increase revenues by \$398,468. However, Petitioner's revenue increase calculation did not utilize the current effective IURC fee rate¹ under present and proposed rates. Thus, we find the evidence supports adjusting Petitioner's test year revenue and operating expenses consistent with the current IURC fee rate and the settlement testimony offered in this proceeding. Therefore, based upon the evidence of record and the Settlement Agreement of the Parties, we find that Petitioner should be authorized to increase its rates and charges by approximately 16.46% in order to produce an additional operating revenue net of the cost of gas of \$399,455. This will allow Petitioner to continue to earn 7.72% on its total original cost rate base of

¹ The Commission fee rate currently in effect is 0.001329888.

\$7,321,808, which authorizes Petitioner the opportunity to recover a total net operating income of \$565,244. However, as we noted in the EEP rate cases:

Petitioner must move towards straight-fixed variable rate pricing in order to continue implementing a decoupled rate design. This will require Petitioner to file a cost of service study in its next rate proceeding in order to increase the amount of fixed costs recovered through Petitioner's customer charges. With the addition of the SRC to Petitioner's rates, which reduces Petitioner's risk in earning its authorized margins, we believe it is imperative for Petitioner to demonstrate that its rates are cost-based.

See, Indiana Utilities Corporation, Cause No. 44062, 2012 Ind. PUC LEXIS 277, at *72-73 (IURC September 5, 2012). In addition, as we noted in our investigation in Cause No. 43180, we encourage utilities to continue to move toward straight-fixed variable rate design, and the implementation of the SRC is a step in that direction. In order to confirm that Petitioner's costs are appropriately allocated across its customer base, we further direct Petitioner to file a cost of service study in its next base rate case.

Finally, we believe that Petitioner's other proposed tariff changes such as the distribution main calculation are reasonable and supported by the evidence of record, and we authorize Petitioner to file a new tariff in accordance with its testimony and Exhibit KAH-S10.

Pursuant to the terms of the Settlement, the Parties agree that the Settlement should not be used as precedent in any other proceeding or for any other purpose except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citations of the Settlement, we find that our approval of the Settlement herein should be recognized in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC March 19, 1997).

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:

1. The Stipulation and Settlement Agreement attached is hereby approved.
2. Petitioner is authorized to increase its rates and charges in accordance with our findings in Paragraph 6 of this Order to produce an additional \$399,455 in annual operating revenues.
3. Petitioner is authorized to implement the Energy Efficiency Program previously approved in Cause No. 43995, including the recovery of Petitioner's share of joint Energy Efficiency Program costs and SRC recovery, subject to the terms of our final Order in Cause No. 43995 and in accordance with our findings in Paragraph 6 of this Order.
4. Petitioner is authorized to implement the alternative regulatory plan for main extension cost recovery in accordance with our findings in Paragraph 6, above.

5. Petitioner shall file with the Commission under this Cause, prior to placing into effect the rates and charges and Terms and Conditions for Gas Service authorized herein, tariff schedules set out in accordance with the Commission's rules for filing utility tariffs. Said tariffs, when filed by Petitioner and upon approval by the Commission's Natural Gas Division, shall cancel all present and prior rates and charges concurrently when said rates and charges herein are approved and placed into effect by Petitioner.

6. Petitioner shall file a cost of service study in its next base rate case.

7. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JUL 31 2013

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**

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STIPULATION AND SETTLEMENT AGREEMENT

Community Natural Gas Co., Inc., (hereafter "Petitioner") and the Indiana Office of Utility Consumer Counselor (hereinafter "OUCC") have, through their respective representatives, exchanged information, considered the evidence of record and what would be offered, and discussed the potential for compromise of all issues in this cause. Following extensive negotiation and a willingness to compromise, the Petitioner and the OUCC (hereinafter collectively the "Parties"), have reached a settlement on all issues as described by this Stipulation and Settlement Agreement (hereinafter the "Settlement").

The Parties believe that the evidence of record as of the final hearing supports the terms of this Settlement. The Parties acknowledge that the terms and conditions of this Settlement are a result of compromise by both the Petitioner and the OUCC relative to the position each has taken or would take in further proceedings in this Cause. In the interest of efficiency, saving the limited resources of the regulatory bodies involved, and recognizing the reasonableness of the results produced by this Settlement, the Parties herein stipulate and agree as follows:

1. **Rate Increase.** Based on the test year ending September 30, 2012, as adjusted for matters that are fixed, known, and measurable, and occurring within 12 months of the test year, Petitioner proposed in its direct case filed March 19, 2013, that its operating revenue should be increased, exclusive of the cost of gas, by \$431,510. During negotiations with the Petitioner's representatives, the OUCC indicated that it would propose in its direct case operating revenue be increased by \$372,322 exclusive of the cost of gas. The Parties now agree that Petitioner should be authorized to increase its base rates and charges to produce additional annual operating revenue, exclusive of the cost of gas, by \$398,468. This represents an increase of approximately 5.63% over adjusted test year operating revenue including the cost of gas; and an increase of approximately 16.70% over adjusted test year operating revenue excluding the cost of gas.

2. **Proforma Adjustments.** Petitioner proposed in its direct case various adjustments to its test year results as set forth numerically in Petitioner's Exhibit DCM-1, Exhibit C, and accompanying schedules as corrected. The pro forma adjustments were further described by the testimony of Petitioner's witnesses Mercer and Mann. Petitioner's proposed pro forma adjustments related to both operating revenue and operating expenses, and included: adjustments to eliminate revenues recovering gas commodity costs and the cost of natural gas purchased from base rates; adjustments to revenue to remove unaccounted for gas revenue and to set revenues based on normal heating degree days; adjustments to payroll and pension contributions; recovery of rate case expense; adjustments to reflect the current IURC fee; adjustment to remove rebates currently associated with the normal temperature adjustment (NTA) which will be included in the Energy Efficiency Program (EEP); removal of charitable contributions; adjustments to recognize changes in various insurance costs; an adjustment to establish bad debt expenses based on a two year average; recovery of expenses associated with

an Alternative Regulatory Plan (ARP) where Petitioner and other small gas utilities requested the opportunity to participate in the EEP under Cause No. 43995 (decoupling expense); adjustments to depreciation expense to reflect current utility plant in service; adjustments for taxes other than income taxes; and recovery of state and federal income taxes, associated with and flow from Petitioner's proposed increased revenue and expense adjustments. Petitioner also sought to establish the value of its rate base on both an original cost and fair value basis; and the elements of and costs associated with its test year capital structure.

During negotiations, the OUCC suggested different adjustment amounts related to various proposals described in Petitioner's direct case-in-chief, as well as certain additional adjustments including: a change in the revenues based on normal heating degree days; a reduction in purchased gas costs; a reduction in rate case expense and an increased amortization period for its recovery, and recognizing Petitioner's treatment of test year rate case expense as a below-the-line non-operating expense; a further reduction in charitable contributions; a further reduction in health insurance expenses; a reduction in Petitioner's test year expenses related to Petitioner's participation in the Substitute Natural Gas (SNG) litigation; a change in the recovery of decoupling expense associated with the EEP; an adjustment for various minor operating expenses described as miscellaneous expenses; and changes in the IURC fee and various taxes related to the flow through effect of different pro forma operating expenses suggested by the OUCC. Through negotiation and compromise, the Parties have resolved all of these pro forma differences and now stipulate to the following pro forma adjustments:

Various Revenue Adjustments. The Petitioner proposed to adjust its operating revenue by eliminating the GCA revenue included in the test year; eliminating the unaccounted for gas

revenue included in current base rates; and decreasing operating revenues to reflect the use of updated normal heating degree days. The OUCC, following a review of Petitioner's books and records and information provided through discovery, agree that these revenue adjustments are appropriate. However, the OUCC initially disagreed relative to the result flowing from the application of the updated heating degree days to test year NTA revenue to establish a new normal for heating degree days. Following a discussion among the Parties, the Parties now agree to the OUCC's suggestion as to the application of the new heating degree days to test year NTA revenue. The Parties have concluded that revenue adjustments to Petitioner's test year are appropriate as follows: elimination of GCA revenue of (\$2,827,877); decrease in revenue to remove unaccounted for gas (\$104,062); and application of the new normal heating degree days to NTA revenue of (\$101,126). Based upon these separate elements, the Parties agree the Petitioner's test year operating revenue should be adjusted by (\$3,033,065).

Purchased Gas. The Petitioner proposed an adjustment of (\$2,615,375) to eliminate the commodity cost of purchased gas from its base rates. The OUCC proposed to reduce purchased gas expense in the amount of (\$2,657,308). The difference between the Petitioner and the OUCC related to the establishment of the

appropriate unaccounted for gas percentage. The OUCC proposed to set such unaccounted for gas percentage at 0%. The Petitioner proposed that the unaccounted for gas be established as a positive number to reflect that Petitioner would have unaccounted for gas on a going forward basis. Through the exchange of information, the Parties have now agreed that the unaccounted for gas percentage on a pro forma basis for this Petitioner should be established at 0.54%. With such agreement, the Parties also agree that the purchased gas adjustment for the Petitioner should be (\$2,632,175).

Payroll Expense. The Petitioner proposed to adjust its test year operation and maintenance expenses and reduce its payroll for purposes of annualizing actual payroll the Petitioner expects going forward. Petitioner's suggested adjustment was (\$15,117). Following the OUCC's review of Petitioner's books and records, the Parties now agree to Petitioner's proposed adjustment and also agree that Petitioner's pro forma payroll net of any amount capitalized should be \$742,948.

Pension Contributions. The Petitioner proposed that pro forma pension expense, based upon those employees that would be participating, would be increased by \$8,619. Following the OUCC's review of Petitioner's books and records, the Parties now

agree to Petitioner's adjustment and agree that Petitioner's pro forma pension expense should be \$109,548.

Rate Case Expense. Petitioner proposed rate case expense recovery of \$250,000 amortized over four years. The OUCC proposed a rate case expense recovery of \$150,000 amortized over five years. The exchange of information between the Petitioner and the OUCC included citations to recent decisions by the Commission for other small gas utilities. Specifically, the Petitioner noted the Commission's decision in Indiana Utilities Corporation, Cause No. 44062, and Midwest Natural Gas Corporation, Cause No. 44063. The OUCC suggested that rate case expense should be less if this case were settled and in turn, referenced South Eastern Indiana Natural Gas Company, Inc., Cause No. 44128, and Boonville Natural Gas Corporation, Cause No. 44129. The Petitioner referenced the additional settled case of Ohio Valley Gas Corporation, Cause No. 44147. While the Parties here acknowledge that such settled cases are not precedent and have not cited them here as an admission by either Party, the Parties recognize that the Commission's approval in these cases included approval of rate case expense and believe it is important to advise the Commission that both the Petitioner and the OUCC considered all of the above cases during the negotiations which have led to the compromise to rate case expense recovery. Based

on the original proposal of the Petitioner and the position that the OUCC would take in further proceedings in this cause, the Parties have agreed to the recovery of \$170,000 of rate case expense amortized over six years, requiring an adjustment to pro-forma current rate operating expense of \$28,333. The Parties further acknowledge that such a result is reasonable for this Petitioner based solely on the facts of this case as of the time of settlement. Petitioner has also agreed to change its rates in the future for purposes of eliminating the amortization following six full years of recovery if a new rate case has not been filed.

IURC Fee. The Petitioner proposed an adjustment of \$1,281 to test year results to reflect the application of the current IURC fee. The OUCC proposed an adjustment of \$1,058. Based on the current IURC fee and the revenues to which it is applicable, the Parties now agree that an adjustment to test year operating results of \$650 is appropriate.

Reduction in Energy Efficiency Expense Associated With the

NTA. The Petitioner proposed to recognize that some energy efficiency expenses would be included in the new Energy Efficiency Program described below and would thus no longer need to be recovered as an expense associated with the NTA. Petitioner noted that this was the same approach used for other small gas utilities in these rate cases such as those referenced

above. Petitioner's proposal was an adjustment of (\$11,300) to test year operating results. The OUCC, following a review of Petitioner's books and records, and acknowledging the appropriateness of recovering such expenses through the EEP, has agreed to the Petitioner's proposed adjustment. Therefore, the Parties believe that an adjustment of (\$11,300) to the Petitioner's test year operating results is appropriate to establish its pro forma revenue requirement.

Charitable Contributions. The Petitioner proposed an adjustment of (\$900) to remove certain charitable contributions from Petitioner's test year operating results. The OUCC suggested an adjustment of (\$1,050) which includes removal of additional expenses which it deemed were charitable contributions. Following an exchange of information, the Petitioner agrees that the OUCC's charitable contribution adjustment of (\$1,050) is reasonable.

Property and Casualty Insurance. The Petitioner proposed an adjustment to reflect an increase in property and casualty insurance expense by \$2,055. The OUCC, following a review of Petitioner's books and records agrees that such an adjustment is appropriate.

Health Insurance. The Petitioner proposed an adjustment to reflect an increase in its health insurance costs by \$12,868. The OUCC, following a review of Petitioner's books and records, and

recognizing the change in employment status of certain personnel, suggested an adjustment of (\$582). The Petitioner, while accepting the OUCC's recognition of change in certain personnel, provided the OUCC with additional information reflective of the cost of supplemental insurance for those employees that are eligible to receive Medicare benefits. Based upon the exchange of this information, the Parties now agree that an adjustment to test year operating expenses of \$416 to reflect Petitioner's health insurance costs is appropriate.

Bad Debts. The Petitioner proposed to adjust its bad debt costs by the average costs in bad debts it had experienced over the prior two year period ending with the test year. Petitioner's proposal was an adjustment of \$1,688. Following a review of Petitioner's books and records, the OUCC agrees with such adjustment.

ARP Expenses Associated with EEP (Decoupling Expense).

The Petitioner proposed recovery of its cost in participating with other small gas utilities in the ARP initiated to establish the EEP, along with funding and decoupling mechanisms. Such ARP was filed under Cause No. 43995 and resulted in an order from the Commission on November 30, 2011. Petitioner's proposal sought recovery of its actual costs incurred, amortized over three years. Petitioner's adjustment provided for the annual recovery of \$16,394. While agreeing that recovery was appropriate, the OUCC

proposed a five year amortization of such amount. Following discussion, the Parties now agree to compromise this issue by using the actual costs incurred by Petitioner of \$49,182 as the appropriate amount to be recovered, and an amortization period utilizing six years to match the amortization period for recovery of rate case expense, plus a recovery of \$3,250 per year to begin to fund those ongoing decoupling expenses Petitioner will incur, as provided to South Eastern Indiana Natural Gas and Boonville Natural Gas (Cause Nos. 44128 and 44129), as a reasonable compromise of this issue. Petitioner has agreed to change its rates in the future for purposes of eliminating the amortization following six full years of recovery if a new rate case has not been filed.

Miscellaneous Expenses. The OUCC proposed an adjustment of (\$1,398) to adjust operating expenses for the removal of certain miscellaneous items. The Parties agree to this adjustment of (\$1,398).

SNG Legal Expenses. The OUCC proposed an adjustment to amortize SNG legal expenses that Petitioner incurred during the test year of \$1,931 over a five year period. Following discussion, the Parties now agree to an amortization period utilizing six years to match the amortization period for recovery of rate case expense, for a total adjustment of (\$1,609). Petitioner has agreed to change its rates in the future for purposes of eliminating this amortization

following six full years of recovery if a new rate case has not been filed.

Depreciation Expense. The Petitioner proposed that its depreciable utility plant should be depreciated at 3% for distribution and transmission plant, 5% for buildings, and 20% for all other general plant. Petitioner's application of these depreciation rates to the agreed depreciable utility plant results in depreciation for transmission and distribution plant in the amount of \$315,363; depreciation for buildings in the amount of \$16,112, and depreciation for all other depreciable general plant in the amount of \$32,747, for a total depreciation expense of \$364,222. Subtracting test year depreciation expense of \$372,779 results in an agreement of the Parties to an adjustment of (\$8,557) to Petitioner's test year results.

Taxes Other Than Income Taxes. The Petitioner proposed an adjustment for FICA taxes of (\$1,156) and for property taxes of \$13,732. Petitioner also proposed an adjustment for utility receipts tax of (\$42,333). The resulting total adjustment for taxes other than income taxes was (\$29,757). The OUCC indicated that it agreed with the FICA tax and property tax adjustment, but disagreed with the utility receipts tax adjustment. The OUCC agreed with Petitioner's methodology in computing utility receipts tax, but suggested a utility receipts tax adjustment of (\$42,486) to

recognize the flow-through effect of the OUCC's adjustments to revenue. Following an exchange of information, the Petitioner agrees with the OUCC's calculation and the Parties agree that the total adjustment for taxes other than income taxes should be (\$29,910) to test year operating results.

Income Taxes. Petitioner proposed an adjustment of (\$28,305) for state income taxes, and (\$107,726) for federal income taxes to reflect its proposed changes to pro forma operating results under present rates. The OUCC, based on different proposed operating results and a decrease in the applicable state income tax rate to 7.5% effective on July 1, 2013, suggested an adjustment for state income taxes of (\$27,118) and an adjustment for federal income taxes of (\$90,330). Following exchange of information, the Parties now agree that state income tax should be adjusted by (\$29,038) and federal income tax should be adjusted by (\$98,382), for a total adjustment to Petitioner's income tax liability of (\$127,420) to test year operating results.

Revenue Adjustments for Pro forma Operating Results Under Proposed Rates. Both the Petitioner and the OUCC acknowledge that once Petitioner's operating revenues are changed to reflect an increase in revenues, various additional adjustments are required to appropriately recover the IURC fee, bad debts, taxes other than income tax (utility receipts tax), and income taxes. The Parties are

in agreement that Petitioner's pro forma revenue requirement adjustments include the following:

IURC fee	\$ 477
Bad debts	\$ 1,711
Taxes other than income taxes (utility receipts tax)	\$ 5,555
Income taxes	
State income tax	\$ 29,721
Federal income tax	\$122,741
Total income tax adjustment	\$152,462

3. **Rate Base.** The Petitioner proposed a rate base, calculated using an original cost basis, of Petitioner's used and useful plant in service, as of September 30, 2012, in the amount of \$13,431,971 less accumulated depreciation of (\$6,827,817) resulting in a net utility plant in service of \$6,604,154. Adding funds for working capital and materials and supplies, the Petitioner proposed a total original cost rate base of \$7,324,292. The OUCC indicated that it had reviewed Petitioner's rate base and agreed to both the amount and the used and useful nature of Petitioner's utility plant, materials and supplies, and gas in storage calculation. However, the OUCC proposed a different amount for working capital based on a different level of operating expense. Based on the agreement of the Parties as to operating expenses, the Parties now also agree that the working capital component of Petitioner's rate base should be \$166,695. The Parties also now agree that Petitioner's rate base calculated on an original cost basis as of September 30, 2012, is \$7,321,696. Finally, the parties agree that this rate base amount should be used to determine an appropriate pro forma net operating income for this Petitioner.

4. **Cost of Capital.** The Petitioner, through its direct case, and the OUCC, through its position during negotiations have agreed on both the elements and costs of Petitioner's capital structure. The Parties agree that the elements of the capital structure as of the test year include:

common equity in an amount of \$5,849,742, customer deposits in the amount of \$111,633, and deferred tax in the amount of \$1,783,655. The 10.10% cost of common equity indicated below is the same percentage approved by the Commission in 2012 in Cause Nos. 44062, 44063, 44128, 44129 and 44147. The Parties further agree that the following table accurately reflects their agreement as to the reasonable costs associated with those elements:

Description	Amount	Percent of Total	Cost	Weighted Cost
Common Equity	\$5,849,742	75.53%	10.10%	7.63%
Customer Deposits	\$111,633	1.44%	6.00%	0.09%
Deferred Taxes	\$1,783,655	23.03%	0.00%	0.00%
Total	\$7,745,030	100%		7.72%

5. **Pro Forma Net Operating Income.** Based upon the agreement of the Parties as to Petitioner's rate base and Petitioner's cost of capital; and recognizing the Parties' agreement on all other elements of Petitioner's revenue requirements; the Parties now agree the Petitioner should be authorized to earn 7.72% on its invested original cost rate base of \$7,321,696, for the opportunity to earn a net operating income of \$565,235.

6. **Cost of Service/Tariffs.** The Petitioner, in its direct case, proposed to allocate its revenue requirement through the application of a cost of service study. The OUCC, during negotiations, suggested a different allocation of certain costs be used in such cost of service study. Following extensive discussions between the Parties, the Parties have now agreed to use the allocation of the costs as reflected on Exhibit KAH-S2. The Parties also agree that an increased monthly customer service charge is appropriate. The Parties agree that the monthly service charge should be increased to: \$12 for residential customers, \$24 for general service

customers, \$75 for industrial service customers, \$900 for large volume gas sales service, \$900 for large volume transportation service customers, and \$74 for school transportation service (described as a monthly service charge and an administrative charge). Finally, the Parties agree that the remainder of the revenue requirement not anticipated to be collected through the fixed monthly charge in each rate schedule, should be allocated to customer classes on a volumetric basis pursuant to the cost of service reflected on Exhibit KAH-S2.

As part of its direct case, the Petitioner also proposed an Energy Efficiency Rider to implement an Energy Efficiency Funding Component (EEFC) of 83¢ per month per residential customer for purposes of funding its EEP; and to implement a Sales Reconciliation Component (SRC) for all residential customers as its decoupling mechanism. Both the EEFC and the SRC flow from this Commission's order in Cause No. 43995. Following exchange of information, the OUCC now agrees that the EEFC and the SRC should be implemented as proposed.

7. **Main Extension Policy.** The Petitioner, in its case-in-chief, proposed an ARP to change the calculation for main extensions from one involving gross revenue to one involving margin revenue. Petitioner also proposed that the three year estimate of revenue be changed to a six year estimate. The Petitioner provided information that this approach had previously been proposed, and approved by the Commission, in Indiana Utilities Corporation, Cause No. 44062, and Midwest Natural Gas, Cause No. 44063. The OUCC agrees that the main extension should be calculated on margin revenue and should use a six year period instead of a three year period.

8. **Request for Prompt Approval by the Commission.** The Parties acknowledge that a significant motivation for the Petitioner to enter into this Settlement is the expectation that a final order will be issued promptly by the Commission authorizing increases in its rates and charges as reflected herein. The Parties have spent significant time and effort to resolve the

issues raised in this case. However, the Parties also recognize the insufficiency of Petitioner's current rates, as reflected by the prefiled evidence. Under these circumstances, the Petitioner requests prompt approval of this Settlement by way of a final order of the Commission.

9. **Sufficiency of the Evidence.** The Parties believe that the Petitioner's direct testimony and exhibits, the OUCC's settlement testimony, the Petitioner's settlement testimony and exhibits, along with the Stipulation and Settlement Agreement, constitute substantial evidence sufficient to support settlement and provide an adequate evidentiary basis upon which the Commission may make findings of fact and conclusions of law necessary to issue a final order adopting and approving this Settlement.

10. **Settlement Effect, Scope, and Approval.** The Parties acknowledge and agree as follows:

- (a) This Settlement is conditioned upon and subject to its acceptance and approval by the Commission in its entirety without change or condition that is unacceptable to any party. Each term of the Settlement is in consideration and support of each and every other term.
- (b) This Settlement is the result of compromise by the Parties within the settlement process. Neither the making of this Settlement nor any of the individual provisions or stipulations herein shall constitute an admission or waiver by any Party in any other proceeding; nor shall they constitute an admission or waiver in this proceeding if the Settlement is not accepted by the Commission. The Parties hereto shall not use this Settlement or the

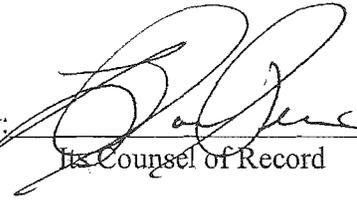
Commission's Order approving this Settlement as precedent, nor offer the same as an admission in any other proceeding; nor use for any other purpose except to the extent necessary to implement or enforce the terms of this Settlement. In the event this Settlement or the resulting Order is offered for any purpose not specifically allowed by the terms of the Settlement, the Parties agree that objections by the non-offering party are proper.

- (c) The communications and discussions among the Parties, along with the materials produced and exchanged during the negotiation of this Settlement, relate to offers of settlement and compromise, and as such, all are privileged and confidential. Such material cannot be used in this or any other proceeding without the agreement of the Parties herein.
- (d) The undersigned represent and agree that they are fully authorized to execute this Settlement on behalf of their designated clients who will thereafter be bound by this Settlement.
- (f) The Parties hereto will either support; or not oppose on rehearing, reconsideration, and/or appeal; an IURC order accepting and approving this Settlement in accordance with its terms.

Accepted and agreed this 13th day of June, 2013.

COMMUNITY NATURAL GAS CO., INC.

INDIANA OFFICE OF UTILITY
CONSUMER COUNSELOR

By: 
Its Counsel of Record

By: 
Its Counsel of Record

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